

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Monique West	Team: Squad #2	CCRB Case #: 201500513	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 11/13/2014 2:00 AM	Location of Incident: 1505 Park Avenue	Precinct: 23	18 Mo. SOL 5/13/2016	EO SOL 5/13/2016	
Date/Time CV Reported Wed, 01/21/2015 1:33 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 01/23/2015 1:33 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jacob Aaronson	00044	941300	PSA 5
2. POM Anthony Baresi	03106	951522	PSA 5

Officer(s)	Allegation	Investigator Recommendation
A.POM Jacob Aaronson	Force: PO Jacob Aaronson used physical force against § 87(2)(b)	
B.POM Anthony Baresi	Force: PO Anthony Baresi struck § 87(2)(b) with an asp.	
§ 87(2)(g), § 87(4-b)		

Case Summary

On November 13, 2014, at approximately 12:30 a.m., PO Anthony Baresi and PO Jacob Aaronson of PSA 5 arrested § 87(2)(b) for violating an order of protection inside of 1505 Park Avenue in Manhattan. During his interaction with the officers, PO Aaronson punched § 87(2)(b) in his face three times (**allegation A**). PO Baresi struck § 87(2)(b) with an asp at least four times, allegedly striking the top of his head and his face (**allegation B**) while PO Aaronson, simultaneously, kicked § 87(2)(b) (**within allegation A**). § 87(2)(b) was arrested and charged with two counts of assaulting a police officer, criminal contempt in the first degree, resisting arrest and disorderly conduct: fight/violent behavior (see Board Review 01 for IAB log, Board review 02 for CCRB statement and Board Review 03 for arrest reports). § 87(2)(g), § 87(4-b)

Mediation, Civil and Criminal Histories

The notice of claim was requested and will be added to the case file upon receipt. As a result of § 87(2)(b)'s open criminal case, this case was unsuitable for mediation. § 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Baresi has been a member of the NYPD for three years, has had 2 previous CCRB allegations involving two cases with no substantiated allegations. § 87(2)(g)
- PO Aaronson has been a member of the NYPD for eight years, has had 15 previous CCRB allegations involving ten cases with no substantiated allegations. Five of the allegations were for physical force (see officer history).

Finding and Recommendations

Allegations Not Pled

- **Stop:** § 87(2)(b) admitted to being within the allotted distance of his son's mother who had a valid order of protection against him.

Recommendations

Allegation A- Force: PO Jacob Aaronson used physical force against § 87(2)(b)

Allegation B- Force: PO Anthony Baresi struck § 87(2)(b) with an asp.

It is undisputed that PO Aaronson and PO Baresi placed § 87(2)(b) who was under the influence of alcohol, under arrest for a violation of an order of protection. It is also undisputed that a struggle ensued in the staircase in which PO Aaronson punched § 87(2)(b) multiple times and PO Baresi struck § 87(2)(b) multiple times with an asp.

§ 87(2)(b) alleged that after PO Aaronson told him that he was under arrest, PO Aaronson pushed him towards the stairs, told him not to resist and punched him on the right side of his cheek three times, simultaneously. § 87(2)(b) leaned away to avoid PO Aaronson's punches but had not been resisting prior to this. PO Aaronson grabbed § 87(2)(b) and attempted to pull him down to the ground. § 87(2)(b) complied and got down on his right side. PO Aaronson grabbed his right arm and attempted to pull it out from under him but § 87(2)(b)'s body weight prevented him from doing so. At this point, PO Baresi allegedly struck § 87(2)(b)

with his asp twice on the top of his head, once over his left eye and again on his forehead. Simultaneously, PO Aaronson kicked him on his side and on his shoulder. § 87(2)(b) moved his body to avoid the officers' strikes but he did not otherwise resist. At one point, § 87(2)(b) stopped moving and completely surrendered, lying face down on the ground. PO Baresi struck § 87(2)(b) an additional time, allegedly causing him to lose consciousness. § 87(2)(b) denied striking an officer (see Board Review 02).

PO Aaronson stated that § 87(2)(b) initially complied when he asked him to turn around and put his hands behind his back but as he grabbed his right hand, § 87(2)(b) jerked his hand out of PO Aaronson's grip and ran towards the stairwell. PO Aaronson and PO Baresi chased him and caught up to him on the platform of the staircase. PO Aaronson grabbed § 87(2)(b) by his clothing, threw his arms around § 87(2)(b)'s torso and attempted to drag him back into the hallway. § 87(2)(b) moved his entire body in attempt to get PO Aaronson off of him while dragging PO Aaronson and PO Baresi closer to the down staircase. The officers continuously ordered him to put his hands behind his back, to get on the ground and to stop resisting but he did not comply. As § 87(2)(b) dragged them closer to the down staircase, PO Aaronson punched § 87(2)(b) in the head four or more times in attempt to get § 87(2)(b) to comply. PO Aaronson feared that he would fall down the stairs and break his neck. § 87(2)(b) threw punches back, making impact once with PO Aaronson's head. PO Baresi called for additional units. PO Aaronson did not see what PO Baresi was doing in attempt to restrain § 87(2)(b). He later learned from their sergeant that PO Baresi had used his asp but did not learn where he struck § 87(2)(b) with it. He did not see PO Baresi remove or use his asp (see Board Review 06).

PO Baresi stated that § 87(2)(b) began to place his hands behind his back when ordered but then suddenly threw his right arm up, striking PO Baresi on the left side of his face. § 87(2)(b) ran towards the stairwell. PO Baresi grabbed one of his arms as he reached the staircase and commanded him to stop resisting and place his hands behind his back. § 87(2)(b) did not comply and continued to drag PO Baresi towards the down staircase. § 87(2)(b) threw punches, striking PO Aaronson in the face and attempted to push them down the stairs. They brought § 87(2)(b) to his knees by pulling him down by his arms but he continued to make attempts to stand and push PO Baresi down the stairs. PO Baresi punched § 87(2)(b) in his shoulder, his face and his arms in attempt to disorient him; however, his strikes had no effect on § 87(2)(b). When his efforts failed, PO Baresi struck § 87(2)(b) with his asp, in its closed position, in his shoulder and arm. He did not recall how many times he struck him but stated that it was more than once. Eventually § 87(2)(b) gave up and they were able to place him in handcuffs. PO Baresi explained that the injuries to § 87(2)(b)'s forehead, observed in his arrest photo, were either sustained from his punches or from the strikes from his baton; however, he did not recall or intend to hit § 87(2)(b) in the head with his asp (see Board Review 07).

The medical treatment of prisoner form (see Board Review 08) notes that § 87(2)(b) had a 1.5cm laceration to his left eyebrow and blunt trauma to the left side of his skull. He received a total of four stitches. His medical records indicate that he arrived at § 87(2)(b) Hospital Center awake and handcuffed with a dressing to his scalp and head and dried blood on his face. He was brought in with head trauma and multiple facial abrasions including a 1.5cm and a 0.6cm left eyebrow laceration. The larger laceration required three stitches and the smaller one required one. He was described by medical personnel as being uncooperative, argumentative and verbally abusive to staff and officers. There was no mention of any loss of consciousness. The two lacerations above § 87(2)(b)'s left eye can be seen in his arrest photo (see Board Review 09). During § 87(2)(b)'s interview on § 87(2)(b), the undersigned investigator observed two scars to the top of § 87(2)(b)'s head where he was allegedly struck. The event information sheet notes that the female caller stated that § 87(2)(b) was threatening her family (see Board Review 10). PO Aaronson's AIDED and Line of Duty report states that he suffered a contusion and

laceration to his forehead as a result of being punched in the head with a closed fist. PO Baresi's AIDED report states that he suffered pain and swelling to his face when § 87(2)(b) struck him in the face with his elbow (see Board Review 11 for AIDEDs and Board Review 12 for LOD).

Patrol Guide Procedure 203 -11 requires officers to use only the minimum amount of force necessary to overcome resistance. OATH has found that a baton or nightstick blow to the head constitutes deadly force. *Police Department v. Bolusi*, OATH Index No. 583/92 (June 5, 1992). Patrol Guide Procedure 203 -12 prohibits officers from using deadly physical force unless they have probable cause to believe that they must protect themselves or another person present from imminent death or serious physical injury (see Board Review 13).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date